



# Cigarette Excise DOR Directive 94-5

GOVERNMENT DOCUMENTS  
COLLECTION

Massachusetts  
Department of  
Revenue

2 1994

University of Massachusetts  
Depository Copy

## No Temporary Cigarette Licenses Under Chapter 64C

### Issue:

Can the licenses required under Chapter 64C, the cigarette excise, be issued on a temporary basis?

### Directive:

Licenses required under Chapter 64C cannot be issued on a temporary basis.

### Discussion Of Law:

#### 1. Massachusetts Cigarette Excise Licensure Requirements

No person may sell cigarettes or act as a manufacturer, wholesaler, vending machine operator, unclassified acquirer, transportation company or retailer of cigarettes in the Commonwealth unless licensed to do so pursuant to G.L. 62C, § 67. See G.L. c. 64C, § 2.

Licenses to act in the capacities enumerated above must be obtained from the Commissioner of Revenue, who will investigate the activities of the license applicant and may grant or deny the license application within ninety days from the date of application. G.L. c. 62C, § 67.

Neither the cigarette excise statute, General Laws Chapter 64C, nor the administrative provisions pertaining to that excise, General Laws Chapter 62C, nor the regulation pertaining to the cigarette excise, 830 CMR 64C.00, specifically allows for the issuance of a temporary license in any context or to any class of potential licensees.

#### 2. Massachusetts Law: Temporary Licenses

If the legislature had determined that the issuance of temporary licenses for cigarette excise purposes was warranted, presumably it would have explicitly provided for such a statutory provision. See, for example, *Wm. Rodman & Sons, Inc. v. State Tax Commission*, 373 Mass 606 (1977); *First National Bank v. J. Baker Guidance Center*, 431 N.E. 2d 243 (1982); legislative intent is conveyed through the words used in statutes, and statutory meaning should not be implied or imputed where legislative meaning is explicit.

In many instances, the legislature has explicitly allowed temporary licensure. See, for example, G.L. c. 143, § 71B (temporary license for construction, maintenance, repair of elevators); G.L. c. 159, § 4 (temporary license for common carriers if unusual, sudden, or unforeseen transportation needs arise, or to avoid interruption of existing service if public convenience and necessity are imperiled); G.L. c. 94, § 28A (temporary license to collect raw milk from dairy farms due to emergency conditions).

Generally, temporary licenses are issued in response to an emergency situation, to prevent an emergency situation from arising, or when the preservation of the public welfare necessitates their issuance. The use of such licenses in occupational situations is generally confined to health care workers, or to nonresident professionals performing temporary services of a public or emergency nature in the state. Temporary licenses are always of limited duration and often contain other restrictions. The restricted availability of temporary licenses throughout the Massachusetts statutes clearly reveals the legislature's preference for permanent licensure.

Mitchell Adams  
Commissioner of Revenue  
April 1, 1994